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Chairman: Mr. AL-SHAALI (United Arab Emirates)

later: Mr. ALFARO-PINEDA (El Salvador)
(Vice-Chairman)

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The meeting was called to order at 3.05 p.m.

AGENDA ITEM 98: HUMAN RIGHTS QUESTIONS (continued) (A/46/67, A/46/70, A/46/71*-E/1991/9*, A/46/72, 81, 83, 85, 95, 96, 99, 117, 121, 135, A/46/166-E/1991/71, A/46/183, A/46/184-E/1991/81, A/46/205*, 210, 226, 260, 270, 273, 290, A/46/292-S/22769, A/46/294, A/46/304-S/22796, A/46/312, 322, 331, 332, 351, 367, 402, 424, 467, 485, A/46/486-S/23055, A/46/493, 526, 582, 587*, A/46/598-S/23166; A/C.3/46/L.25)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued) (A/46/3 (chap. VI, sect. C), A/46/40, 46, 392, 393, 394, 395, 490, 503, 618)

1. Miss RAYNATOU (Niger) said that, in adopting the Convention on the Rights of the Child, the General Assembly had recognized that children had greater needs and broader rights than those encompassed by the concept of child protection. Through that instrument, which enshrined the civil, economic, social, cultural and political rights of the child, Member States had accepted the challenge to establish national measures reflecting those rights.

2. Respect for the rights of the child would depend in the final analysis on how countries translated into law the principles on which those rights were based and on the resources allocated for that purpose. It was important to ensure that the Convention would be implemented through good times and bad: the principle of "children before all" required a firm commitment, which did not waver in face of changes that would inevitably occur in the world.

3. The Heads of State and Government at the World Summit for Children had been eloquent in their promises and ambitious in their aims. Nevertheless, promises would not help children survive or develop; resources were needed to transform those promises into reality. For the developing countries, the two main sources of resources would come from reorienting current expenditures towards the social sector and alleviating the external debt burden. Any agreements on debt relief should be elaborated with a view to redirecting budgetary credit to programmes for children. Restructuring of assistance programmes would make possible a reorientation towards the objectives set for the year 2000.

4. In commemoration of the Soweto massacre, the Organization of African Unity had declared 16 June as the Day of the African Child, as one more demonstration of its support for the cause of the survival, protection and development of children, who represented Africa's primary resource.

5. Despite the existence of child-protection instruments, among them the African Charter on the Rights and Welfare of the Child, the obstacles to child survival and development in many African communities were overwhelming. Population growth in Africa was greater than its capacity to feed its children. The prolongation of the economic crisis, exacerbated by the onerous debt burden and the decline in prices for raw materials, had forced Governments to cut back their social programmes. The drought and armed

(Miss Raynatou, Niger)

conflicts had reduced to nought the efforts to alleviate human suffering. According to statistics, in 1990 those factors had caused more than 20 million Africans to suffer from hunger. In spite of all that, some progress had been made, particularly in the fields of immunization, drinking water and primary education.

6. Much had been done in the Niger to improve the situation of children. Noteworthy among those efforts were the installation of water pumps in cities and rural areas; the creation of maternal and infant care centres; the equipping of a family health centre; and the organization of a comprehensive immunization programme which had yielded 62 per cent coverage of the population for tuberculosis, 25 per cent for diphtheria, whooping cough and tetanus, 25 per cent for poliomyelitis and 28 per cent for measles. Nevertheless, the 13.2 per cent infant mortality rate and the prevalence of illiteracy among mothers continued to be causes for concern. In the academic field, new schools had been built from the pre-school to the secondary levels. Yet, the literacy rate continued to be low and the school drop-out rate high; 30 per cent of students left school without skills.

7. Her delegation expressed its appreciation to the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the Food and Agriculture Organization of the United Nations (FAO), non-governmental organizations, friendly countries and other organizations for their aid to Niger children.

8. Of utmost importance to the developing countries was literacy for women, a factor which affected infant mortality. The international community must provide the African States with the supplementary assistance needed to overcome their problems and move towards development. Her delegation was convinced that the rights of the child would be justly accorded priority in the programme of the 1993 World Conference on Human Rights.

9. Mr. ZHANG Kening (China) said that the Convention on the Rights of the Child was an international instrument of far-reaching significance. Since it had been opened for signature on 26 January 1990, the Convention had been ratified by or acceded to by 100 countries and signed by 41 others. The Committee on the Rights of the Child had recently discussed and elaborated procedural guidelines for the effective monitoring of the implementation of the Convention by all States parties. His delegation was convinced that the entry into force of that instrument would encourage the promotion of child well-being and of legal protection for children's physical and mental health.

10. The importance attached by the international community to the protection of the rights of the child had thus ushered in a new phase of cooperation and legalization. China had participated actively in the drafting of the Convention, had signed it in 1990 and was currently preparing to ratify it. His country had more than 300 million children and had always been concerned with defending their legitimate rights and interests. The Constitution and many other laws contained provisions in that regard. His Government had

(Mr. Zhang Kening, China)

spared no effort to promote compulsory education at the primary and secondary levels, with remarkable success.

11. The United Nations had supported the cause of the protection of individuals from torture and other cruel, inhuman or degrading treatment or punishment, evils which China had always opposed, attaching importance to international cooperation in that field. China had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in October 1988 and had become a State party thereto in November of the same year. His country had fulfilled its obligations under the Convention: it had submitted its initial report in 1989 and had sent a delegation to Geneva in 1990 at the time of consideration of the report by the Committee against Torture. At the Committee's request, his Government had been preparing an additional report and had informed the Centre for Human Rights of the state of preparation of that document. It was a matter of record that China had always submitted its reports on observance of international instruments in a timely fashion and had complied with the corresponding financial obligations. Nevertheless, in his recent statement under sub-item 98 (a), on behalf of the European Community, the representative of the Netherlands had unjustly criticized China. The irony was that among the very countries of that Community there were some which had not yet submitted their reports and another which had not submitted additional information requested by the Committee against Torture. The criticism was obviously unfair and biased.

12. Pursuant to its legal system, once China had ratified or acceded to an international treaty and the treaty had entered into force, there was no need for additional domestic legislation to give effect to the treaty. In other words, the Convention against Torture had automatically entered into force in the country. Furthermore, many provisions of the Convention had been embodied in national laws which, for example, stipulated the inviolability of the rights of persons, the democratic and other rights of citizens and an absolute prohibition on the use by public officials of torture, threats or other illegal means of obtaining confession or proof. Those who breached those rules were subject to legal penalties. In addition, in order to prevent abuse of power and the practice of torture, legislative measures had been taken regarding the independence of the judicial power and the public security organs as well as the relations of mutual monitoring and supervision among the judicial authorities. Furthermore, Chinese law also guaranteed the right of citizens to seek protection of their legitimate rights and interests through legal process and to obtain compensation if their rights had been illegally tampered with by State institutions or public officials. In that connection the mass media had also played a monitoring role.

13. Like other crimes, torture had yet to be completely eliminated in China. China would therefore continue its work in the fields of legislation, justice, administration and public information. What deserved special stress was that China had maintained a consistent position against torture, had been implementing its obligations under the Convention against Torture and was ready to cooperate with other countries in the fields of extradition and judicial assistance in penal matters.

14. Mr. HUSSAIN (Iraq) said that his delegation attached great importance to the item under consideration by the Committee and, in particular, to the implementation of the human rights instruments. Iraq had ratified most of those instruments and was considering the others with a view to adopting the corresponding measures. Currently the Government was completing its preparatory analysis in connection with its accession to the Convention on the Rights of the Child.

15. Iraq was complying faithfully with its obligations regarding the submission of reports on developments in the country in the field of human rights and replied in timely fashion to the questionnaires received from international agencies and non-governmental organizations. The few cases of late response by the country had been the result of force majeure. Even during exceptional periods of its history, as for example during the conflict with the Islamic Republic of Iran, Iraq had not failed to comply with its obligations.

16. The Iraqi Government had recently submitted the following periodic reports: (a) the ninth and tenth reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, which had been considered in August 1991; (b) the first report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, which had yet to be considered by the appropriate organ; and (c) the third report on the implementation of the International Covenant on Civil and Political Rights, which had been considered in October 1991. That report had specified the extent to which national legislation had been adapted to the provisions of the Covenant.

17. In connection with legislative measures and the dissemination of information on human rights, the Ministry of Justice, with the collaboration of the Ministry of Foreign Affairs, had prepared a national code of human rights which incorporated the text of the international instruments and of all national laws on the subject. The code had been distributed to the organs responsible for the implementation of those laws and it was hoped that they would make an effective contribution to the immediate implementation of the international treaties to which Iraq was party. As soon as that process had been completed, copies of the code would be sent to the Centre for Human Rights in Geneva.

18. The equality of States in regard to the obligations which they had entered into by virtue of the treaties was a basic rule which should not give rise to discriminatory treatment of any kind. His delegation considered that such equality should be maintained, bearing in mind that many States had delayed the submission of periodic reports for years without any action having been taken, while other States, which had incurred brief delays, sometimes of less than a year, had been subjected to more prompt measures. His delegation would like to know the reason for such differential treatment.

19. Concerning the implementation of the international instruments, he said that account must be taken of the enormous hazards to human rights in Iraq

(Mr. Hussain, Iraq)

represented by the embargo, which violated the fundamental rights enshrined in those instruments such as the right to life, to a dignified existence and to adequate nourishment. The embargo contravened in particular the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, the Geneva Conventions concerning the protection of the civilian population and the Convention on the Rights of the Child.

20. Referring to the statement of the representative of Norway, he asked whether children in Iraq did not have the same rights as the other children of the world and whether the Convention had ceased to have any meaning because of a decision adopted in the case of Iraq. Referring to the information contained in a study made in 1991 by a United States humanitarian organization in which attention had been drawn to the increased rate of child mortality and to disturbances in the behaviour of Iraqi children due to malnutrition and illness, he asked how a State could ensure full respect for human rights when its population was deprived of food and medical supplies - in itself a massive violation of the right of the population to life - and said that only the return of the Iraqi funds frozen abroad or the commercial export of petroleum would enable the country to purchase the food and medical supplies needed by its 18 million inhabitants.

21. His delegation hoped that those factors would be borne in mind when consideration was given to the implementation of the human rights instruments and when the enormous difficulties facing Iraq in complying with their provisions were understood.

22. Mrs. BASNYAT (Nepal) said that the protection and promotion of the welfare of children was not only a moral obligation of society but also a human rights imperative. Nepal was convinced that the consolidation of democracy and freedom required that the fundamental human rights of every individual be protected and promoted and had therefore ratified the Convention on the Rights of the Child and had committed itself fully to abide by its provisions. It was therefore essential to make sure that the environment in which children were growing up currently was conducive to their balanced physical, mental and intellectual growth.

23. She gave a brief description of the situation of children in the world and referred to the report Children and the Environment published jointly by UNEP and UNICEF, which analysed the pernicious effects of environmental problems on the survival of children.

24. After referring to the efforts made by Nepal to meet the basic needs of the population in the remote and backward areas of the country, which had been frustrated by the country's difficult topography and lack of a transport and communications network, she described the situation of thousands of Nepalese children who were forced to work from a very early age and whose earnings constituted a significant share of family income.

(Mrs. Basnyat, Nepal)

25. She said that the democratic transformation to a multiparty system in her country had encouraged the Government to concentrate its efforts on stimulating child survival, development and welfare. Nepal had also supported the international strategies of "Health for All by the Year 2000" as well as universal immunization.

26. The new democratic Constitution guaranteed the fundamental human rights of the Nepalese people, and the Government of Nepal, as a party to the Convention on the Rights of the Child, was reviewing its legislation with a view to promulgating new laws consistent with the provisions of the Convention.

27. In September 1990, the National Planning Commission had held a joint seminar with the United Nations Children's Fund (UNICEF) that had resulted in a comprehensive plan setting forth the goals for children and development in the 1990s. She described the measures the Government had adopted to reach those goals and indicated a few of the more important activities that had been carried out. Her delegation expressed profound gratitude to UNICEF for its generous assistance in improving the situation of children in Nepal. It also appreciated the assistance provided by the United Nations Development Programme, the Food and Agriculture Organization of the United Nations, the World Health Organization, the International Labour Organisation and other United Nations bodies, as well as by various other intergovernmental and non-governmental organizations that had provided valuable support in that area.

28. Her delegation welcomed the establishment of the Committee on the Rights of the Child as a focal point to oversee the implementation of the Convention. It was confident that, in the future, that Committee would be able to draw up guidelines regarding the form and content of reports to be submitted by the States parties.

29. Mr. ORDONEZ (Philippines) said that his delegation had always attached great importance to the effective and efficient functioning of the treaty bodies, whose primary mandate was to monitor State compliance with treaty obligations. He thought it appropriate to observe that the adoption in 1990 of the resolution on the rationalization of the work of the Third Committee was another step in that direction.

30. Consideration of the implementation of all human rights instruments as a sub-item provided a better perspective on the conditions faced by the treaty bodies and would make it possible to focus attention on how to improve and strengthen their functioning in order to enable them to address effectively the concerns of the States parties.

31. He had five general comments in that regard. First, the Philippines welcomed the consolidated guidelines for the initial part of the reports of States parties, which would avoid duplication of work.

(Mr. Ordonez, Philippines)

32. Second, he was pleased that the manual to assist States in the preparation of their reports had been completed. His delegation took note of the recommendation of the Committee on Economic, Social and Cultural Rights that States parties that had not yet submitted an initial report after 10 years should be encouraged to avail themselves of the advisory services available from the Centre for Human Rights.

33. Third, the Philippines supported the holding of nine regional workshops on human rights instruments in preparation for the World Conference on Human Rights in 1993. The information from those workshops should help to encourage States that had not yet become parties to those conventions to do so.

34. Fourth, his delegation reiterated its position that the activities of all human rights treaty bodies should be funded entirely from the United Nations regular budget, which would be consistent with the full recognition of human rights as a dominant concern of the Organization.

35. Fifth, there was a need to make use of the knowledge and experience of those bodies in future standard-setting activities. The Philippines thought that, instead of setting new standards on various human rights concerns, it might be better to draft optional protocols to existing conventions or devise indicators of progress in implementing existing standards.

36. His delegation had taken note of the Costa Rican initiative in the Commission on Human Rights and was studying the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which would provide for a system of visits to places of detention in order to prevent acts of torture.

37. With respect to the Convention on the Rights of the Child, his delegation welcomed the speed with which that instrument had received international attention and noted with satisfaction the holding of the first session of the Committee on the Rights of the Child. The Philippines was privileged to have one of its experts serve on that body. His delegation had carefully studied the interim report and fully endorsed the conclusions and recommendations in chapter I of the report. His delegation was prepared to support a draft resolution that would address the concerns of that Committee and welcomed its adoption of the general guidelines regarding the form and content of initial reports to be submitted by States parties. He said that the Convention on the Rights of the Child had been translated into the national language.

38. As evidence of his Government's firm commitment to promote and protect human rights, he cited a recently signed act restoring civil jurisdiction over certain offences committed by members of the Armed Forces, other persons subject to military law and members of the national police and repealing all legal provisions inconsistent with it.

39. Mr. Alfaro-Pineda (El Salvador), Vice-Chairman, took the Chair.

40. Mr. STUART (Australia) said that the United Nations human rights instruments and the associated system of submitting periodic reports had helped to strengthen acceptance by Governments of their responsibility for promoting and protecting the human rights of all their citizens.

41. Over the preceding 12 months, there had been an increase in the rate of ratification and accession with respect to the International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights, which lay at the heart of the treaty system. That was encouraging, but the goal should unfailingly be universal acceptance. The 1993 World Conference on Human Rights would provide an excellent opportunity to promote that objective.

42. Australia had become a party to the First Optional Protocol to the International Covenant on Civil and Political Rights in September 1991 and would now look at acceding to the other provisions allowing individual complaints to be considered by treaty-monitoring committees such as the Committee on the Elimination of Racial Discrimination. Australia had also become a party to the Convention on the Rights of the Child.

43. His delegation, which had always given priority to promoting the implementation of human rights treaties, took note of the problem of the continued backlog of reports awaiting consideration and the number of overdue initial reports from States parties.

44. The international system of human rights instruments could be improved and strengthened in many ways. For example, it would be possible to lend support to the expert committees by publicizing their work, providing them with the necessary documentation and establishing a resource room in the Centre for Human Rights. Furthermore, the committees themselves could adopt new, more direct work methods and could encourage interaction among themselves and with the relevant non-governmental organizations. It would also be possible to make the treaty system more coherent by working together, through the International Court of Justice, to consider the reservations entered by States parties with an eye to preventing them from undermining the intent of the treaties.

45. His delegation wished to refer specifically to the funding problems of the Committee on the Elimination of All Forms of Racial Discrimination and the Committee against Torture - the only two treaty bodies that were not funded from the United Nations regular budget and relied on the contributions of States parties.

46. The arrears in States parties' contributions - about $180,000 in the case of the Committee on the Elimination of Racial Discrimination and about $350,000 in the case of the Committee against Torture - has had adverse consequences such as the cancellation or curtailment of meetings and sessions, with resulting delays in considering States parties' reports.

(Mr. Stuart, Australia)

47. With regard to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the financial provisions had a direct impact on the rate of ratification and accession: whereas the Convention on the Rights of the Child, which had been adopted in 1989 and was fully funded from the regular budget, already had 100 States parties, the Convention against Torture, adopted in 1984, had only 60. Such situations must be avoided. There could be no first-class and second-class treaties in the human rights field. A coherent treaty system meant that all treaties should be financed under the regular budget.

48. Proposals for responding to the funding problems of those two Committees fell into two categories: measures to alleviate the problem temporarily and solutions that would overcome it. Measures in the first category included exhortations to States parties to meet their financial obligations; suspension of voting rights of States significantly in arrears; and the establishment of a contingency reserve fund.

49. All those measures offered partial solutions. The only lasting solution would be the establishment of a sustainable and reliable funding base. The 1988 meeting of Chairpersons of human rights treaty bodies had concluded that the General Assembly was responsible for the proper functioning of the treaty bodies and should itself ensure their financing from the regular budget. That opinion was shared by the experts who had prepared the study on enhancing the implementation of human rights treaties and by numerous Member States.

50. Basically, three options had been put forward for funding the Committee on the Elimination of Racial Discrimination and the Committee against Torture out of the regular budget. The first was to subsidize arrears through advances from the regular budget to be repaid later by the States parties concerned. That would penalize countries which regularly met their financial obligations and would fail to put the two Committees on the same footing as other United Nations human rights bodies.

51. The second proposal was that the General Assembly should decide that all costs for those treaties should be met from the regular budget without resort to States parties. However, there were specific provisions in the relevant Conventions requiring action by States parties, which the General Assembly should not change.

52. In his delegation's view, the only real solution would be for the international community to agree on measures to include the financing of both Committees from the regular budget by means of General Assembly resolutions, and the amendment of the two Conventions through the prescribed procedures. Those measures should take into account the need for the United Nations budgetary bodies to consider how to make provision for all costs to be met from the regular budget before the amendments came into effect.

53. The Australian Government was aware that there was broad support for the idea among Member States and was prepared to submit amendments to the two

(Mr. Stuart, Australia)

treaties to the Secretary-General and have them considered by the States parties to each Convention. Australia would be grateful for the support of other Governments and for their views. Amending any treaty was a serious matter, requiring careful consideration, but the case for amendment on the present occasion was clear, because the funding regime had not worked in practice.

54. The Australian Government intended to propose that the funding provisions of the International Convention on the Elimination of All Forms of Racial Discrimination (art. 8, para. 6) and the Convention against Torture (arts. 17, para. 7, and 18, para. 5) should be replaced by the corresponding provisions of the Convention on the Rights of the Child (art. 43, paras. 11 and 12) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 72, paras. 7 and 8). The proposal on the revision of the Convention on the Elimination of All Forms of Racial Discrimination would be sent to the Secretary-General in time for the necessary action to be taken so that the States parties could meet in January 1992 to consider it. The proposed amendment to the Convention against Torture could be considered at a later stage in 1992 in accordance with the procedure set out in article 29 of the Convention.

55. Mr. MALONE (Canada) said that United Nations action in the field of human rights had translated mankind's aspirations for human rights and fundamental freedoms into legal instruments. However, the effective implementation of those instruments had not been entirely satisfactory. The main responsibility for implementing human rights treaties lay with individual States, and Canada urged countries that had not yet done so to ratify the covenants and conventions and to meet their reporting and financial obligations. Canada was a party to the main international human rights instruments and planned to ratify the Convention on the Rights of the Child before the end of 1991.

56. It was a matter of concern that a number of States had chosen not to become parties to certain human rights instruments. The General Assembly must pursue its efforts to convince them of the importance of ratification or accession for the benefit of their own citizens and the international community as a whole.

57. While States must bear the responsibility for implementing international instruments in their own territory, the United Nations must bear the responsibility for financing the monitoring bodies set up under those instruments. In view of the financial problems, particularly of the Committee on the Elimination of Racial Discrimination and the Committee against Torture, his delegation welcomed Commission on Human Rights resolution 1991/20 and supported the idea of creating a contingency fund for the Committee on the Elimination of Racial Discrimination and financing the meetings of persons chairing treaty bodies from the regular budget. However, those measures were not sufficient, and a lasting solution must be found for the problem of financing. Canada had repeatedly urged that all treaty-monitoring bodies should be financed from the regular budget.

(Mr. Malone, Canada)

58. The reporting procedure needed streamlining and rationalizing and the burden of preparing reports should never become a deterrent to ratification or compliance.

59. While the emphasis of United Nations action had shifted over the years from standard-setting to implementation, there were still areas on which regulations were needed, such as violence against women and the rights of indigenous peoples.

60. The Government of Canada had been actively involved in the deliberations of the Working Group on Indigenous Populations since its inception, as a natural extension of Canada's interest in the promotion of human rights and the high priority it had given to developing a new legal and constitutional framework for realizing the rights of its aboriginals, who represented about 4 per cent of the population.

61. The World Conference on Human Rights in 1993 - the International Year of Indigenous Peoples - would provide an opportunity for seeking ways of strengthening United Nations human rights machinery, increasing its overall effectiveness and enhancing States parties' ability to meet their obligations.

The meeting rose at 4.30 p.m.